



Federal Communications Commission
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WRNN-TV Associates Limited
Partnership
c/o Todd M. Stansbury, Esq.
Wiley Rein & Fielding, LLP
1776 K Street, N.W.
Washington, D.C. 20006

Re: WRNN-TV, Kingston, New York
Facility ID No. 74156

Dear Licensee:

On December 19, 2003, WRNN-TV Associates Limited Partnership (WRNN-TV Limited), the licensee of analog television station WRNN-TV, (IND), NTSC Channel 62, and permittee of digital television station WRNN-DT, DTV Channel 48, Kingston, New York, filed a letter requesting Commission authority to: (i) cease analog broadcasting on NTSC Channel 62 and surrender its license for the channel prior to the end of the DTV transition period; and (ii) thereafter operate WRNN-DT as a single channel, digital-only television station on DTV Channel 48.¹ WRNN-TV Limited's proposal appeared on public notice on April 27, 2004.

WRNN-TV Limited's request was submitted pursuant to the voluntary band-clearing mechanisms adopted by the Commission to facilitate the clearing of channels 59-69. In the *Upper 700 MHz MO&O and FNRPM*, the Commission established a rebuttable presumption that, in certain circumstances, substantial public interest benefits will arise from a voluntary agreement between a 700 MHz licensee and an incumbent broadcast licensee on Channels 59-69 that clears the 700 MHz band of incumbent television licensee(s). In particular, this favorable presumption attaches to any requests that: (1) would make new or expanded wireless service, such as '2.5' or '3G' services, available to consumers; (2) would clear commercial frequencies that enable provision of public safety services; or (3) would result in the provision of wireless service to rural or other underserved communities. The applicant would also need to show that grant of the request would not result in any one of the following: (1) the loss of any of the four stations in the designated market area (DMA) with the largest audience share; (2) the loss of the sole service licensed to the local community; or (3) the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service. See *Upper 700 MHz MO&O and FNRPM*, 15 FCC Rcd 20845, 20870-71 (2000). The Commission further indicated that when this presumption is not established, or is rebutted, it would review regulatory requests by weighing the loss of broadcast service and the advent of new wireless service on a case-by-case basis. *Id.* at 20869-71.

¹ WRNN-TV Limited also supplemented its proposal several times, at the request of the staff, to submit additional information.

In support of its request to voluntarily vacate NTSC Channel 62, WRNN-TV Limited asserts that early return will serve the public interest because it would clear commercial spectrum that would enable public safety useage. As WRNN-TV Limited points out, Channel 62 is adjacent to frequencies allocated for public safety use, and the Commission recognized that clearing a channel adjacent to spectrum to be used for public safety would mitigate interference to the users of that spectrum. *Id.* at 20870, n.120. In addition, two MHz of the Channel 62 spectrum has already been auctioned to Nextel Spectrum Acquisition Corp. (Nextel).² Nextel's activation of the B Block frequency at this time would promote new additional cellular service and further enhance interference-free public safety utilization of Channels 63 and 64. WRNN-TV Limited also asserts that the early return of the channel will advance the Commission's overall objectives in the DTV transition period and extend the station's interference-free coverage to an additional 11.9 million people.

WRNN-TV Limited acknowledges that the early return of its NTSC channel will result in loss of an over-the-air analog service, but contends that the impact on the public will be imperceptible since, according to Nielsen Media Research, there was no reportable over-the-air viewing for the station for the month of April 2004. According to WRNN-TV Limited, the New York City DMA has a cable penetration rate of 77.6% and a direct broadcast satellite (DBS) penetration rate of 10.9%. WRNN-TV Limited represents that it will demand that the cable operators initially carry WRNN-TV's over-the air digital signal in an analog format, and provide the cable operators with the conversion equipment necessary to translate the station's over-the-air signal from digital to analog. WRNN-TV Limited further states that more than 92% of viewers residing within WRNN-TV's Grade B contour will continue to receive five or more off-the-air television signals. In addition, the staff's engineering analysis using Longley-Rice methodology shows that the area which will receive less than five over-the-air signals is terrain blocked. Accordingly, these viewers do not presently receive Grade B coverage from WRNN-TV. Finally, while early return of WRNN-TV Limited's NTSC channel will result in the loss of the sole analog service licensed to Kingston, WRNN-TV is presently operating pursuant to an STA and viewers in Kingston will continue to be able to view that signal with the necessary DTV reception equipment, as well as at least four alternative over-the-air analog signals.

Based upon the foregoing, while WRNN-TV Limited has not met all of the factors necessary to come within the rebuttable presumption, we believe the public interest would be served by permitting WRNN-TV Limited to surrender its license for NTSC Channel 62 and commence digital operations on DTV Channel 48. Accordingly, WRNN-TV Limited's request IS GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

² Nextel acquired the B Block license, which includes two MHz within the Channel 62 spectrum for the New York City Economic Area. See *Public Notice, Wireless Telecommunications Bureau Grants 700 MHz Guard Bands Auction Licenses*, DA 00-2882 (released December 21, 2000).